

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David A. & Catherine Henke,
Petitioners-Appellants.

v.

Grundy County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-38-0052
Parcel No. 871528261002

On September 30, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, David A. and Catherine Henke, designated Michael W. Rickert of Rickert & Leistikow, P.C., Reinbeck, as their attorney. They submitted evidence in support of their petition but did not participate in the hearing. The Grundy County Board of Review requested the hearing and designated Grundy County Attorney Kirby D. Schmidt as its legal representative. Assessor Greg Harms represented the Board of Review at hearing. The Board submitted documentary evidence prepared by the assessor in support of its position. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

David A. and Catherine Henke, owners of property located at 604 Broad Street, Reinbeck, Iowa, appeal from the Grundy County Board of Review decision reassessing their property. The subject property is a 3600 square-foot, four-unit apartment building with a four stall detached garage built in 1973. The real estate was classified as commercial for the January 1, 2009, assessment and valued at \$131,560, allocated \$7880 to land value and \$123,680 to improvement value.

The Henkes protested to the Board of Review on the grounds that the property's assessment was not equitable with the assessments of other like properties under Iowa Code section 441.37(1)(a) and that there has been a downward change in value since the last assessment under sections 441.37(1) and 441.35(3). In response to the protest, the Board of Review notified the Henkes that the January 1, 2009, assessment would remain unchanged stating, "Evidence by taxpayer not sufficient to show taxpayer not equitably assessed."

The Henkes then filed an appeal with this Board on the ground of inequity but did not allege the ground regarding downward trend in value. This Board will only consider the ground of inequity as this was the only ground alleged to this Board that was also alleged to the Board of Review. The amount of relief sought in this appeal by the Henkes is \$6560, who value the property at \$125,000.

The Henkes submitted five properties to the Board of Review that, in their opinion, are comparable to the subject property. The Henkes also submitted at the Board of Review hearing what appears to be all of the small apartment complexes in Grundy County for the purposes of comparison. Among other things, however, the data does not describe the depreciation attributed to the properties or the land size of these properties.

Therefore, we find the data lacks sufficient information for this Board to determine the actual comparability of the properties or the assessed value of the subject property.

Assessor Greg Harms, on behalf of the Board of Review testified at hearing regarding the Henkes comparable properties. In Mr. Harm's opinion, not all the properties were comparable. He stated that some of the comparables were located in cities other than Reinbeck, some comparables were six- or eight-unit apartments, and the size and conditions differed. Mr. Harms submitted properties that, in his opinion, were the most comparable. The assessed value per unit of these properties ranged from \$25,238 per unit to \$31,943 per unit. The subject property is assessed at \$32,890 per unit. Although the subject property per-unit value is just outside the range, in Mr. Harms'

opinion, is justified by the fact the subject was larger and in better condition. Mr. Harms testified that he used the *Iowa Real Property Appraisal Manual* to assess all properties in Grundy County.

Reviewing all the evidence, we find that the properties submitted by the Henkes lack sufficient data to draw a reasonable conclusion to what the assessment should be. This Board finds the testimony of the Assessor to be reliable in explaining the difference in the comparable properties. Therefore, this Board finds the Henkes failed to meet their burden of proof and affirm the 2009 Grundy County Board of Review assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa code § 441.21.(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

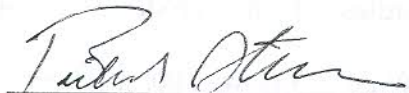
The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

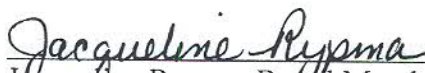
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion the Henkes failed to present persuasive evidence sufficient to support the claim that their assessment was not equitable as compared with assessments of other like property in the taxing district.


Viewing the evidence as a whole, we determine the appellants, David A. and Catherine Henke failed to prove their property is inequitably assessed. This Board did not find the properties submitted to be comparable to the subject property. We, therefore, affirm the Henke's property assessment as determined by the Board of Review at \$131,560 as of January 1, 2009.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Grundy County Board of Review is affirmed.

Dated this 23 day of October, 2009.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Chair

Copies to:

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APPELLANTS

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 10/23, 2009

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature

